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Fifty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1257th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1257/Add.1.

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The meeting was called to order at 10.15 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

1. The CHAIRMAN invited Mr. Banton, Rapporteur of the Committee, to report to the experts on the issues dealt with that morning by the Bureau.

2. Mr. BANTON (Rapporteur) asked the members of the Committee to state the questions they wished to raise when the High Commissioner for Human Rights came to meet with the Committee the following afternoon; that meeting would be presided by Mr. Diaconu. Before the end of the session, the experts would be informed of the outcome of the Bureau's deliberations on the date and place of forthcoming sessions of the Committee, as well as of the financial implications of the proposed decision. In view of the difference of opinion on the formulation of the Committee's conclusions, the Bureau would like to know what the experts thought of an approach which he had designed and which represented a compromise solution. The members' opinions were also requested on the arrangements described in note CERD/C/52/Misc.23 in order to improve the briefing to be given to States parties before their delegations came before the Committee. He called on the experts who were specialists in international law to formulate their observations on the draft comments by the International Law Commission on reservations so that a Committee statement on the matter could be prepared.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth and fourteenth periodic reports of Ukraine (continued) (CERD/C/299/Add.14; HRI/CORE/1/Add.63)

3. At the invitation of the Chairman, the delegation of Ukraine resumed its place at the Committee table.

4. Mr. SHAHI said that, given the current upheavals in Ukraine, particularly in the economic and social fields, its efforts to ensure good inter-ethnic relations and the initiative it had taken to succeed the Soviet Union in respect of international human rights instruments were all the more praiseworthy.

5. Even though the Convention was directly applicable, which was a logical consequence of what was stated in paragraph 6 of the report (CERD/C/299/Add.14), Ukraine was bound to enact specific legislation prohibiting racial discrimination, as required by article 2 (d) of the Convention. Racist associations had been declared illegal, but there was no mention in the report of any penalties being imposed against such organizations. The next report of Ukraine should give the required additional information on the implementation of article 4 (a) and (b) of the Convention.

6. Given the strongly multi-ethnic nature of Ukraine, as illustrated by the statistics in paragraph 6 of the core document (HRI/CORE/1/Add.63), it was surprising that only about five or six minorities, which were always the same

ones, were mentioned in the report. The next report should devote more space to the country's demographic diversity, perhaps using the information provided by the Russian Federation on its demographic composition as a model.

7. Among the minorities mentioned were the Tatars, who were finally being compensated for 15 years of injustice by being granted the right to resettle in Crimea. That measure had been long in coming, but he associated himself with those of his colleagues who had already commended Ukraine for having taken it. He asked what other nationalities also had the right to resettle in the territories from which they had been deported. Paragraph 60 of the report mentioned only one school where instruction was in Crimean-Tartar, but he was sure that others would be created. He also hoped that the Tatars, who had been compelled to acquire Uzbek citizenship, would recover their original citizenship without difficulty.

8. Noting, as Mrs. Zou had done, that only 12 nationalities were represented in Parliament, he said he was sure that, as long as democracy and respect for the rule of law made headway, other groups would also be duly represented.

9. The fifteenth periodic report of Ukraine should provide additional information on the implementation of articles 4, 5 and 6 of the Convention.

10. Mr. NOBEL said that, according to paragraph 55 of the report, the post of ombudsman was being created, which was a thoroughly commendable initiative. The question remained as to what his status, powers and mandate would be, whether he would enjoy parliamentary immunity, whether he would be vested with full investigative and decision-making powers, whether he would be empowered to receive complaints and whether he would have the resources, particularly human resources, necessary to handle them.

11. The Committee should also welcome the information contained in paragraph 65 on the right of access by all without discrimination to all public places and services, but there were other areas, such as the labour market, housing and financing, which were equally important.

12. With regard to the implementation of article 6 of the Convention, which required the State party to guarantee the right of victims of racial discrimination to seek just and adequate reparation, compensation should apply not only to economic loss, but also to humiliation suffered. Account should also be taken of the preventive effects of the right to compensation.

13. Like previous speakers, he felt compelled to return to the issue of the Roma, who, after having suffered so much, were still the victims of discrimination throughout Europe. One had only to read the report of the European Roma Rights Center, which dealt only with the Transcarpathian region of Ukraine, but nonetheless contained very detailed information.

14. As frequently happened, the blame was placed on the victims themselves, and not on the society that denied them their rights. The Roma, for example, were said to be over-represented in crime statistics and, although they often were, most crimes were committed among the poorest and most vulnerable segments of society.

15. As to the word "Gypsies", used by the head of the delegation of Ukraine, the word "Roma" was preferred by the members of the Committee, who also spoke of Sami and Inuits to designate the groups formerly called Lapps and Eskimos.

16. Mr. RECHETOV said that he wished to clarify a misunderstanding about the name of the peoples variously referred to as Gypsies, Roma, "Gitanes" and so forth. In Russian, there was only one word, which was the word "Gypsies", and there was nothing pejorative about it.

17. The CHAIRMAN said that it would be useful to think about the question of terminology, as the persons concerned often had preferences of their own based on their place of origin. In Arabic, the Roma were designated by yet another name.

18. Mr. SHERIFIS said that he wished to come back to several points which had already been stressed by some speakers and which were particularly important.

19. The right to equal access to public service (art. 5 (c) of the Convention) was of fundamental importance since there were so many minorities and some of them were so large. Ukraine had indeed adopted laws guaranteeing minority rights and some minorities were represented in Parliament. But what about their representation within the Executive branch? Although there were disadvantages to the quota system, Ukraine could view it as a way of giving minorities a political existence.

20. Article 5 (e) proclaimed the right to work and the delegation of Ukraine had stated that full employment was a reality in the State party. He wished to know whether that was still the case and, if not, what the situation of minorities was vis-à-vis the rest of the population.

21. With reference to the implementation of article 7 of the Convention, he recalled the Committee's General Recommendation V, paragraph 2 (c) of which drew the attention of States parties to the fact that they must promote the purposes and principles, inter alia, of the International Convention on the Elimination of All Forms of Racial Discrimination. He asked the delegation what the authorities were doing to meet that objective and whether, for example, the Convention was discussed on television.

22. The creation of the post of ombudsman also struck him as an excellent initiative, but he would like to know more about its activities and how it worked.

23. The measures taken by Ukraine to prevent all manifestations of inter-ethnic discrimination and the establishment, announced in paragraph 64 of the report, of a special interdepartmental commission with powers to evaluate any adverse social tendencies reflecting racism, chauvinism and religious intolerance, were to be commended. He wished to know whether that commission was working on the basis of the Committee's General Recommendation XVII. The wording of the paragraph suggested that other mechanisms had also been established; if so, the Committee would like to be told about them.

24. The restoration of the inalienable right of the Tatars to resettle in Crimea was entirely to Ukraine's credit. He referred to the Committee's General Recommendation XXII, which stated that refugees and displaced persons had the right "to have restored to them property of which they were deprived ... and to be compensated appropriately for any such property that cannot be restored to them".

25. In the concluding paragraph of the report, the Government stated that it subscribed to the generally recognized norms of international law and specifically the principles of "inviolability, territorial integrity and non-interference in the internal affairs of other States". The Committee endorsed such an attitude without reservations.

26. Mrs. SADIQ ALI, referring to paragraphs 24 to 26 of the report, asked whether the divisions in the Churches were based on ethnic alignments. While she welcomed the measures taken by the Government on behalf of the Roma, particularly the registration of several Roma organizations, she wondered whether the Roma language had been standardized or whether it was only spoken.

27. According to a report of the European Roma Rights Center, the Roma living in the Transcarpathian region were poor and marginalized. They were subject to discriminatory treatment by the police and the non-Roma population. Furthermore, they were targeted as potential criminals. The forced registration to which they were subjected constituted a violation of article 5 (b) of the Convention. If the reform of the police had not yet been undertaken, it should be, as the way the police functioned had changed since independence. The recruitment of Roma into the security forces should also be encouraged.

28. According to that same report, the legal system was overburdened and the Roma were unable to benefit from due legal assistance. Furthermore, they had difficulty understanding the Ukrainian language and what judges said to them. The extremely low salaries of members of the judiciary in the Transcarpathian region encouraged corruption.

29. According to Mr. Shaketa, the Mukacheve City Counsellor who acted as mediator between the local authorities and the Roma community, the Roma usually held unskilled jobs, for example, cleaning buildings or collecting scrap metal or paper. In addition, they were particularly hard hit by unemployment. She wondered what was being done to implement article 5 (e) (i) of the Convention.

30. In Telman, the Roma sometimes lived without either water or electricity. They were particularly vulnerable to illness and the European Roma Rights Center said that Roma were forced to eat dogs and raid garbage dumps to survive.

31. As most of the Roma were illiterate, the State party was violating article 5 (e) (iii), (iv) and (v) of the Convention and was not taking into account the Committee's General Recommendation XIX on article 3 of the Convention.

32. She encouraged the State party to accede to the European Framework Convention for the Protection of National Minorities and the European Charter on Regional and Minority Languages.

33. Mr. YEFIMENKO (Ukraine) said that article 9 of the Constitution penalized racial discrimination and that the international treaties to which Ukraine had acceded were a part of national legislation. Racial discrimination was defined in conformity with article 1 of the Convention.

34. There was no reference in the Constitution to "ethnic minorities", but to "national minorities". Article 3 indicated that national minorities were Ukrainian citizens who were not of Ukrainian nationality, but who were recognized as being part of a separate community. Under article 11 of the Constitution, the State contributed to the consolidation of the nation and the development of the indigenous peoples and national minorities of Ukraine. The Constitution also provided that State bodies and national and municipal authorities must act solely in conformity with the Constitution and the law. Everyone in Ukraine had the right to come before the courts and, if necessary, to file suit against the State and to request compensation if his rights had been violated by officials. There were no cases in Ukraine of the denial of justice. In 1993 and 1997, respectively, 76 and 188 complaints had been filed against the State and 167,263 roubles and 455,700 roubles, respectively, paid to the plaintiffs in damages.

35. Parliament also guaranteed respect for the rights of victims of racial discrimination. It also ensured respect for international norms in that field. The Supreme Council of Ukraine ensured the proper functioning of the Human Rights Institute, a private body which was not part of the Government and whose activities could not be hindered.

36. The General Prosecutor's Office of Ukraine was competent to ensure the protection of human rights. Article 59 of the Constitution stated that every citizen had the right to a lawyer of his choosing and to free legal assistance.

37. Much importance was attached to public information in Ukraine. The media were used to publicize human rights and the Ministry of Justice published information on the international treaties to which Ukraine was a party. Furthermore, judicial decisions were published in the Official Gazette. Individuals could consult law materials in public libraries. For several years, an effort had been under way to develop human rights education at the university level.

38. Magistrates and judges were independent and the cases before them were considered by panels. Article 129 of the Constitution reinforced the independence of the courts and the judicial system. Ukraine had drawn largely on the experience acquired in countries with more advanced legal systems. It had also been considerably inspired by a Canadian project on the organization and functioning of the courts.

39. Election to the Parliament of Crimea required at least five years' residence in Ukraine. The Autonomous Republic of Crimea was competent in the

following fields, inter alia: agriculture, forestry and quarry development, hunting and fishing, tourism, public transport, road and railroad infrastructure and health-care services.

40. Since 1992, the Ministry of Justice had registered 960 citizens' associations for the various nationalities. There were 53 political parties in Ukraine. A law on the creation and functioning of religious organizations was currently in draft form. The authorities were determined that all forms of authoritarianism in that field should be eliminated.

41. In order to prevent organizations from pursuing unacceptable objectives under the cover of cultural activities, the authorities carefully examined the statute of associations prior to registering them.

42. Acts of racial discrimination in Ukraine were not widespread. The attacks against Tatars in Feodosiya (Crimea) in June 1995 were isolated events. In any case, all the circumstances should be taken into account in analysing incidents involving national minorities. In addition, in 1996 and 1997, no sentences for racial discrimination had been reported.

43. As called for by the law, as well as by international agreements concluded with the Russian Federation, among others, Ukraine had fulfilled its obligations with regard to the restoration of property belonging to displaced persons. That was the case of the Crimean Tatars.

44. As to the implementation of article 2 of the Convention and in conformity with what was stated in the report, foreigners enjoyed the same rights and the same duties as Ukrainian citizens under articles 24 and 26 of the Constitution.

45. In reply to the comments on the death penalty, he said that it had been suspended sine die for all those sentenced and no request for a presidential pardon had been turned down. The problem of the persistence of the death penalty in Ukrainian criminal law had already been brought before the Council of Europe and Ukraine was planning to amend its Criminal Code and to abolish it.

46. Mr. GARVALOV said he regretted that the delegation of Ukraine had not replied to the questions he had raised at the preceding meeting on the situation of the Bulgarian minority. Were the Bulgarians able to preserve their language and were there schools which provided instruction in Bulgarian?

47. Mrs. KOVALSKA (Ukraine) said that problems of language and culture which dated to the Soviet era arose not only for minorities, but also for Ukrainians themselves.

48. With regard to the Bulgarians in particular, most of the schools which had existed in the 1930s and had been closed under the Communist regime had now been reopened. There were some 13,000 Bulgarian students in Ukrainian secondary schools, about 800 of whom had chosen to study the Bulgarian language as an elective. She could provide Mr. Garvalov with more information on the subject after the meeting.

49. Mr. RECHETOV said that, as a jurist, the head of the Ukrainian delegation, Mr. Yefimenko, had a tendency to cite legal texts in replying to questions raised, instead of explaining what was really going on in practice. Some important points had still not been clarified. What was the current status of the Russian language in Ukraine? It was not enough to say that those questions were covered by a federal law. It would be interesting to have more details and information, for example, on the use of Russian in daily life or the preservation of Russian culture.

50. He would like to know what the functions of the Parliament of the Autonomous Republic of Crimea were. Had the powers of the former "Supreme Soviet" of Crimea been weakened? He thought he had understood that that Parliament was no longer empowered to decide on certain issues, such as the study of Tatar. What exactly was the situation?

51. Mrs. KOVALSKA (Ukraine) said that the Russian language continued to enjoy a special status in Ukraine, where 22.5 per cent of the population was of Russian origin. Russians represented more than 40 per cent of secondary school students and more than 50 per cent of students of higher education. That meant that the Russian culture was in no way threatened and that the concern of the Government was rather to develop the language and education of other ethnic groups and to do away with the excesses of the former policy, in accordance with the Act on National Minorities.

52. The problems in Crimea concerned not only the Tatars, but also the Ukrainians, who had only one school, and the members of other minorities who had resettled in the peninsula, including Armenians, Bulgarians, Greeks and Germans. The Government was doing its best to protect the rights of the peoples living in that republic and there was no question of violating its autonomy.

53. Mr. van BOVEN (Country Rapporteur), summing up the debate, said that he wished to refer again to the matter of the return of deportees, which was still on the agenda of several international bodies, including the Organization for Security and Cooperation in Europe (OSCE). The efforts of the Government to compensate those persons and encourage their reintegration were praiseworthy and were welcomed by the Committee. However, the Committee was still concerned about the situation of the Roma. The doubts expressed on that subject by many members of the Committee had not been dispelled.

54. Another question on which the Committee would like more details was that of remedies available to the victims of discrimination. Could the Ombudsman really influence the implementation of the Convention? In particular, did he have investigative powers? The role played by the courts in that regard was obviously very important and the ability to benefit from legal assistance was to be commended. Any person whose rights had been violated should be able to have access to a court and to know what was required in order to apply for a remedy. That presupposed a certain level of education and experience showed, for example, that, if one had to come before a court in order to claim one's right to compensation, that right often remained a dead letter.

55. Although the delegation had explained that the main provision which could be invoked in order to bring about the implementation of article 4 of

the Convention was article 66 of the Criminal Code, it had not cited any jurisprudence based on that article, which created doubts as to its practical usefulness. Stronger instructions should be given to judges in order to deal with those problems. Generally, an effort must be made to see that judges were more familiar with the Convention, and particularly article 14, and that they received specialized training in that regard. Information on the remedies available under article 14 should also be disseminated to the public.

56. With regard to more technical questions, he welcomed the fact that Ukraine was implementing a moratorium on the death penalty.

57. In its next report, the State party should follow the Committee guidelines to the letter and take due account of the recommendations made to it and follow up thereon.

58. He urged Ukraine to ensure the broadest possible dissemination of the provisions of the Convention throughout its territory.

59. The CHAIRMAN said that the Committee had thereby concluded its consideration of the fourteenth periodic report of Ukraine.

60. The delegation of Ukraine withdrew.

The public part of the meeting rose at 12.10 p.m.